

# State of South Dakota

EIGHTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 2009

400Q0266

## HOUSE BILL NO. 1048

Introduced by: The Committee on Appropriations at the request of the Department of  
Environment and Natural Resources

1 FOR AN ACT ENTITLED, An Act to increase the transfer from the water and environment  
2 fund, the solid waste management fee, mining license and permit fees, water right filing and  
3 permit application fees, and well driller and pump installer license fees, all of which are  
4 deposited in the environment and natural resources fee fund.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

6 Section 1. That § 1-40-32 be amended to read as follows:

7 1-40-32. On the first of July each year, ~~four hundred thousand dollars (\$400,000)~~ five  
8 hundred thousand dollars or all the interest deposited for the previous year in the water and  
9 environment fund established pursuant to § 46A-1-60, whichever is less, shall be transferred  
10 from the water and environment fund to the environment and natural resources fee fund  
11 established pursuant to § 1-40-30.

12 Section 2. That § 34A-6-81 be amended to read as follows:

13 34A-6-81. There is hereby imposed a solid waste management fee of ~~a~~ one dollar and  
14 twenty-five cents per ton for all municipal solid waste disposed of at a landfill facility. The fee  
15 shall be imposed upon the generator as a surcharge by the operator of the landfill facility at the



1 time of disposal. The fee shall be calculated based upon actual disposal weight or if actual  
2 weight is not available each person served by the facility shall be considered to generate  
3 eight-tenths of a ton per year. Facilities subject to the fee imposed by § 34A-6-1.17 are not  
4 subject to the fee imposed by this section.

5 Section 3. That § 34A-6-85 be amended to read as follows:

6 34A-6-85. Twenty percent of the fees received pursuant to §§ 34A-6-81 and 34A-6-82 shall  
7 be deposited in the environment and natural resources fee fund established in § 1-40-30 and  
8 shall be used to defray costs of administering the solid waste management program requirements  
9 of chapter 34A-6. All fees received pursuant to §§ ~~34A-6-81 to §§ 34A-6-83 and 34A-6-84;~~  
10 inclusive, and eighty percent of the fees received pursuant to §§ 34A-6-81 and 34A-6-82 shall  
11 be deposited in the water and environment fund established in § 46A-1-60, and their  
12 expenditures shall be limited to the solid waste source reduction, recycling, and waste  
13 management program established in § 46A-1-83. Grants or loans from this the water and  
14 environment fund shall be administered by the Board of Water and Natural Resources in  
15 accordance with the rules established for solid waste management grants or loans in § 46A-1-84.  
16 The board shall offer a grant or loan preference to tire management projects utilizing fees  
17 originating pursuant to § 34A-6-83, including waste tire shredding and transporting. The board  
18 shall award financial assistance to projects for waste tire shredding and transporting until there  
19 is capacity in the private sector to fully utilize all new waste tires generated in this state on an  
20 annual basis. Financial assistance for waste tire shredding and transporting may total no more  
21 than two hundred fifty thousand dollars in any one fiscal year, but such financial assistance may  
22 not be awarded to any state agency. The board shall offer a grant or loan preference to any  
23 municipal solid waste landfill facility using volume-based fees reflecting full and true disposal  
24 cost. After deducting the amounts provided for waste tire activities provided for by this section

1 and § 34A-6-85.1, at least fifty percent of the amount remaining from the fees imposed pursuant  
2 to §§ 34A-6-81 to 34A-6-84, inclusive, shall be awarded as recycling grants or loans.

3 Section 4. That § 45-6-65 be amended to read as follows:

4 45-6-65. An operator shall obtain a license to mine for sand, gravel, rock to be crushed and  
5 used in construction, pegmatite minerals or for limestone, iron ore, sand, gypsum, shale,  
6 pozzolan, or other materials used in the process of making cement or lime. The operator shall  
7 comply with the requirements of §§ 45-6-68, 45-6-69, 45-6-71, and 45-6-72 for each site to be  
8 mined. Failure to comply with these requirements for each site mined constitutes mining without  
9 a valid license.

10 The fee for the license is an annual fee of one hundred dollars for each individual mine site  
11 authorized under the license, which shall be deposited in the environment and natural resources  
12 fee fund established in § 1-40-30 by the department.

13 Section 5. That § 45-6B-14 be amended to read as follows:

14 45-6B-14. The application fee of one thousand dollars shall accompany the application.  
15 However, the fee shall be fifty thousand dollars for a large scale precious metal, coal, or  
16 uranium mine permit.

17 Section 6. That § 45-6B-36 be amended to read as follows:

18 45-6B-36. Within sixty days prior to the anniversary date of the permit each year, the  
19 operator shall submit a map on the scale provided for by subdivision 45-6B-10(3) showing the  
20 reclamation accomplished and any deviations from the originally approved operating and  
21 reclamation plans. Except for operators which are units of state or local government, the  
22 operator shall submit, in addition to the map, an annual fee of one hundred dollars or an annual  
23 fee of fifty thousand dollars if the operation is a large scale precious metal, coal, or uranium  
24 mine that was permitted after January 1, 2009. The annual fee for any large scale coal or

1 uranium mine permit shall be reduced by any tax paid in accordance with chapter 10-39B during  
2 the year preceding the date the annual fee is due.

3 Section 7. That § 10-39B-1 be amended to read as follows:

4 10-39B-1. The Legislature finds that:

- 5 (1) Exploration for and development of energy minerals ~~and oil and gas reserves~~ in this  
6 state may from time to time require the expenditure of state funds in the  
7 administration of the rules and statutes; and
- 8 (2) The State of South Dakota should be compensated for those reasonable costs incurred  
9 in carrying out the duties as set forth in ~~chapter~~ chapters 45-9, 45-6B, and 45-6D.

10 Section 8. That § 10-39B-2 be amended to read as follows:

11 10-39B-2. There is imposed on the severance of energy minerals in this state an excise tax,  
12 to be known as a conservation tax, equal to two and four-tenths mills of the taxable value of any  
13 energy minerals severed and saved. The tax shall be paid by the operator as defined in  
14 subdivision 10-39A-1.1(3). An operator may not pass the tax on to the owner of the energy  
15 minerals. The tax provided for in this chapter shall be placed in the environment and natural  
16 resources fee fund established pursuant to § 1-40-30 and collected in accordance with chapter  
17 10-39A except that §§ 10-39A-1, 10-39A-3, and 10-39A-7 to 10-39A-14, inclusive, do not  
18 apply to the tax imposed by this chapter. The tax collected from the production of oil or gas may  
19 be used to carry out the duties as set forth in chapter 45-9. The tax collected from the production  
20 of coal or uranium may be used to carry out the duties as set forth in chapters 45-6B and 45-6D.

21 Section 9. That § 46-2-13 be amended to read as follows:

22 46-2-13. The department shall charge and receive the following fees, to be collected in  
23 advance; ~~however, no such fees may be collected from any state agency or state institution:~~

- 24 (1) For filing and examining ~~an application for a permit to construct~~ a location notice

1 required for construction of a structure across a dry draw or nonnavigable  
2 watercourse for the purpose of diverting or collecting storm water and of applying  
3 the water to beneficial use, ~~ten~~ fifty dollars;

4 (2) For filing and examining an application for a permit to appropriate water, to construct  
5 works and to put the water to beneficial use, including filing of proofs of publication,  
6 recording the permit to appropriate water and action on all other papers relating to  
7 the application up to and including issuance of the permit, ~~one hundred fifty five~~  
8 hundred dollars for the first one hundred twenty acre feet per year or fraction thereof,  
9 ~~seventy-five~~ two hundred fifty dollars for the second one hundred twenty acre feet  
10 or fraction thereof and ~~twenty-five~~ one hundred dollars for each subsequent one  
11 hundred twenty acre feet or fraction thereof. If the water permit is denied,  
12 seventy-five percent of the fee shall be returned to the applicant. The fee for an  
13 application to appropriate 0.1 cubic feet per second or less, to change a diversion  
14 point or to add a diversion point with no new appropriation of water is ~~fifty~~ one  
15 hundred dollars. The fee for filing and examining an application to appropriate water  
16 for future use is equal to ten percent of the fee charged for an application to  
17 appropriate water, construct works and put the water to beneficial use. The fee for  
18 maintaining the effectiveness of a future use permit after the period of seven years  
19 as set out in § 46-5-38.1 is likewise equal to ten percent of the fee charges for an  
20 application to appropriate water, construct works, or put the water to beneficial use.  
21 If an application to put part or all of the water reserved by a future use permit to  
22 beneficial use is filed, the entire fee for an application to appropriate water, construct  
23 works, or put water to beneficial use shall be paid;

24 (3) For each inspection of constructed water use works, including diversion works, dams,

1 pumping plants, canals, or other conduits and for confirming the application of water  
2 to beneficial use under provisions of a permit to appropriate water, including  
3 issuance of a water license, fifty two hundred dollars ~~or actual costs, if costs exceed~~  
4 ~~fifty dollars. The fee shall be submitted with the application to appropriate water and~~  
5 be refunded if the application is denied;

6 (4) For officially filing ~~any other paper, two dollars and fifty cents~~ a transfer of  
7 ownership of an application or permit to appropriate water, fifty dollars;

8 (5) For filing and examining an application to reinstate a permit filed pursuant to § 46-  
9 2A-8.1, fifty one hundred dollars; and

10 (6) For filing and examining an application to claim a vested right pursuant to §§ 46-5-  
11 49 and 46-6-2, ~~fifteen~~ fifty dollars, which may not be refunded.

12 ~~In ascertaining actual cost of any work, as the term is used in this section, the salary of any~~  
13 ~~salaried officer for the time employed shall be included.~~ All fees received by the department  
14 shall be paid into the state treasury to the environment and natural resources fee fund established  
15 in § 1-40-30.

16 Section 10. That § 46-6-9 be amended to read as follows:

17 46-6-9. Any well driller, before doing any well drilling and before contracting for any such  
18 work, shall first secure and thereafter maintain a license. The words "South Dakota Licensed  
19 Well Driller No." shall be plainly displayed at a conspicuous place on the premises where the  
20 work is being conducted. The fee for the license is fifty two hundred dollars, and fifty two  
21 hundred dollars shall be paid each calendar year for renewal of the license. The fee shall be paid  
22 to the Department of Environment and Natural Resources and deposited with the state treasurer  
23 in the environment and natural resources fee fund established in § 1-40-30. The license shall be  
24 issued pursuant to the procedures contained in chapter 46-2A. No license may be issued unless

1 the applicant is experienced and knowledgeable in good well construction methods. The Water  
2 Management Board shall promulgate rules pursuant to chapter 1-26 establishing qualifications  
3 for well drillers.

4 Section 11. That § 46-6-9.3 be amended to read as follows:

5 46-6-9.3. The Water Management Board shall issue a well pump installer license to any  
6 applicant who meets the requirements specified in this section. The fee for the license is ~~fifty~~  
7 two hundred dollars, and ~~fifty~~ two hundred dollars shall be paid each calendar year for renewal  
8 of the license. The fee shall be paid to the Department of Environment and Natural Resources  
9 and deposited by the state treasurer in the ~~state general fund~~ environment and natural resources  
10 fee fund established in § 1-40-30. The license shall be issued pursuant to the procedures  
11 contained in chapter 46-2A. No license may be issued unless the applicant is experienced and  
12 knowledgeable in well pump installation methods. The Water Management Board shall  
13 promulgate rules pursuant to chapter 1-26 establishing well pump installation qualifications.